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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,607	02/23/2004	Elise Tordella	1810K	8323

54964 7590 10/01/2007  
TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ  
15 HAMPSHIRE STREET  
MANSFIELD, MA 02048

EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3771

MAIL DATE	DELIVERY MODE
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10/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/784,607

Applicant(s)

TORDELLA ET AL.

Examiner

Danton DeMille

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: ____.                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/6/6, 8/8/6, 5/4/6, 7/18/5, 5/27/5, 8/9/4.

### DETAILED ACTION

The disclosure is objected to because of the following informalities: there are blanks in the written description on page 8, line 19, page 10, line 11, page 12, line 26.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 5, 6, 11-14, 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Oguri et al.**

Oguri teaches a sleeve 1 configured for disposal over the entire body including a limb. The sleeve including a first portion 11 defining a first expandable chamber 114 and a second portion 12 defining a second expandable chamber 124 and a third expandable chamber 122. The second portion 12 including a connector 152 in fluid communication with a pressurized fluid source 13 and the first 114, second 124 and third expandable chamber 122. The first portion 11 being removable from the second portion. Broadly it would appear that Oguri anticipates the invention as claimed.

Regarding claim 2, the connector 151 between the first portion 11 and the second portion 12 has a plurality of opening for the tubes 14 and therefore the first portion 11 and second portion 12 is connected via a perforated attachment.

Regarding claim 5, the first expandable chamber 114 defines at least one sub-chamber 115.

Regarding claim 6, the second expandable chamber 124 defines at least one sub-chamber 125.

Regarding claim 12, the tubular pathway of the first expandable chamber 11 is removable from the 151L portion of the connector.

Regarding claim 13, the Oguri device is capable of performing the claimed functional intended use limitations and would have been an obvious provision of Oguri.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguri et al. in view of Rotta.**

Oguri already teaches the sleeve can be separated into an upper portion 11 and a lower portion 12. There appears to be no unobviousness to separating the sleeve up even further into smaller sections as desired. Rotta also teaches the inflatable sleeve can be separated into a plurality of sections. It would have been obvious to one of ordinary skill in the art to modify Oguri to separate the sleeve into smaller sections as taught by Rotta so as to have a separate torso section from the legs section should it be determined that the particular patient does not or cannot have the massage therapy performed on the torso portion of the body. The known method of separating sleeves into smaller sections would appear to be obvious when it does no more than yield the same predictable results.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oguri et al.**

Oguri already teaches the convention of including sub-chambers within larger chambers for enforce pressure upon a specific area. There appears to be no unobviousness to providing additional sub-chambers on any of the other larger chambers in order to enforce pressure upon any other specific area as desired. It would have been obvious to one of ordinary skill in the art to modify Oguri to include a third sub-chamber on top of another larger chamber such as third expandable chamber 122 in order to enforce pressure upon the knee.

**Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguri et al. in view of Dye '312.**

Dye also teaches an inflatable sleeve in which there is an opening 26a-b, 28a-b that would function as a ventilation opening and is located between a second and third expandable chamber. It would have been obvious to one of ordinary skill in the art to modify Oguri to include an opening in the sleeve as taught by Dye for providing flexibility to the sleeve or for ventilation.

**Claims 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meredith in view of Oguri et al.**

Meredith teaches a sleeve system 1 configured to wrap about a leg and defining a plurality of ventilation openings between sections 33, 34, 35. The sleeve includes a thigh portion 34 including sub-chambers 12, 16, a calf portion 33 including sub-chambers 17, 19 and an ankle portion defining a third inflatable chamber 12 having sub chambers 17, 19. While Meredith teaches tubular connections 31, 32 that are not disconnectable, Oguri teaches tubing that is disconnectable from adjacent sections of sleeve. The connectors 151, 152 of Oguri allows for the different sections of sleeve to be separately assembled and disassembled for ease of donning the sleeve. It would have been obvious to one of ordinary skill in the art to modify Meredith to

use connectors between sections of the sleeve such as taught by Oguri so as to be able to disassemble the different sections of the sleeve for ease in donning the sleeve.

The method of using providing the sleeve, disposing the sleeve, delivering pressurized fluid, deflating and disassembling the sleeve would have been inherent. Removing the first section from the second section would be inherent when removing the device after use. Oguri also teaches being able to remove one section of the sleeve to be able to use the remaining sleeve alone as desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

27 September 2007

*/Danton DeMille/*  
Danton DeMille  
Primary Examiner  
Art Unit 3771